

§ 250.3

17 CFR Ch. II (4–1–98 Edition)

(1) Such holding company, and every subsidiary company thereof which is a public utility company from which such holding company derives, directly or indirectly, any material part of its income, are predominantly intrastate in character and carry on their business substantially in a single State in which such holding company and every such subsidiary company thereof are organized; or

(2) Such holding company is predominantly a public utility company whose operations as such do not extend beyond the State in which it is organized and States contiguous thereto.

(b) *Exception.* Unless otherwise required by the Commission, a holding company which is a subsidiary of a registered holding company need file only the initial statement on Form U-3A-2. [Rule U, 6 FR 2015, Apr. 19, 1941, as amended at 10 FR 15412, Dec. 29, 1945]

§ 250.3 Exemption of certain banks.

(a) *General exemption.* Subject to the provisions of § 250.6 and to the requirements contained in paragraph (c) of this section, any bank shall be exempt from any obligation, duty, or liability imposed by the act upon such bank as a holding company solely by reason of such bank owning, controlling, or holding with power to vote any securities of any public-utility or holding company which the bank:

(1) Holds as collateral for a bona fide debt; or

(2) Holds in the ordinary course of its business as a fiduciary; or

(3) Has acquired solely for purposes of liquidation in connection with a bona fide debt previously contracted and has owned beneficially for a period of not more than two years.

(b) *Exemptions from section 9(a)(2).* Subject to the requirements contained in paragraph (c) of this section, any bank shall be exempt from section 9(a)(2) of the act with respect to the acquisition of any securities by such bank:

(1) As collateral for a bona fide debt; or

(2) Solely for purposes of liquidation in connection with a bona fide debt previously contracted; or

(3) In the ordinary course of its business as fiduciary; or

(4) Which is not a voting security or convertible into a voting security.

(c) *Statements.* Any bank claiming exemptions pursuant to the provisions of this section shall file a statement on Form U-3A3-1 (§ 259.403 of this chapter) within 30 days after the last day of February of each year. No such statement is required, however, with respect to any security holdings as to which such form is inapplicable by its provisions.

(d) *Definition of bank.* The term “bank”, as used in this section, means any company primarily engaged in business as a commercial bank or trust company, or both, and subject to regulation or examination under the laws of the United States or of any State, or any receiver, conservator, or liquidating agent thereof in his capacity as such.

[16 FR 253, Jan. 10, 1951]

§ 250.4 Exemption of certain brokers, dealers and underwriters.

(a) *General exemption.* Subject to the provision of § 250.6, any broker, dealer or underwriter, as defined in paragraph (c) of this section, shall be exempt from any obligation, duty, or liability imposed by the act upon such person as a holding company, solely by reason of such person owning, controlling, or holding with power to vote any securities of any public utility or holding company which are:

(1) Not beneficially owned by such persons and are subject to any voting instructions which may be given by customers or their assigns; or

(2) Acquired within 12 months in the ordinary course of business as a broker, dealer or underwriter with the bona fide intention of effecting distribution of the specific securities so acquired.

(b) *Exemption from section 9(a)(2).* Any broker, dealer or underwriter, as defined in paragraph (c) of this section shall be exempt from section 9(a)(2) of the act (49 Stat. 817; 15 U.S.C. 79i) with respect to the acquisition of any securities for the account of customers, or in connection with any underwriting entered into with the intention of effecting immediate distribution of such securities.

(c) *Definition of broker, dealer or underwriter.* As used in this section, the

Securities and Exchange Commission

§ 250.7

terms “broker” or “dealer” have the meaning set forth in sections 3(a)(4) and (a)(5) of the Securities Exchange Act of 1934 (48 Stat. 882; 15 U.S.C. 78c), and the term “underwriter” means any underwriter as defined in section 2(11) of the Securities Act of 1933 (48 Stat. 74, 905; 15 U.S.C. 77b) who is regularly engaged in business as such and is not a registered holding company.

§ 250.5 Exemption of certain foreign holding companies.

Any holding company not organized under the laws of any State of the United States or the District of Columbia, and owning no utility assets located within any State of the United States or the District of Columbia and having no subsidiaries or affiliates owning any assets so located, shall, subject to the provisions of § 250.6, be exempt from all the provisions of the act and rules thereunder: *Provided*, That such exemption shall not be applicable to any acquisition of utility assets located within any State of the United States or the District of Columbia or of any security of any company owning such assets or having any subsidiary owning such assets, if, as a result of such acquisition of securities, the acquiring company will become an affiliate of the issuer, except an issuer within any class specified in § 250.10(a).

§ 250.6 Termination of exemptions.

If it appears to the Commission (on the basis of statements claiming exemption or otherwise) that a substantial question of law or fact exists as to whether any holding company claiming exemption under § 250.2, § 250.3, § 250.4, § 250.5, or § 250.10 or any other section now or hereafter in force pursuant to section 3(a) of the Act exempting any class of holding companies from the registration requirements of the act, is within the exemption afforded by any such section, or if it appears that any question exists as to whether the exemption of any such company may be detrimental to the public interest or the interest of investors or consumers, the Commission may notify such holding company to that effect by registered mail. Thirty days after such notification, such exemption shall terminate, without prejudice to the right of such holding company to file an appli-

cation for an order granting such an exemption pursuant to any applicable section of the act, and without prejudice to any temporary exemption provided for by the act if such application is filed in good faith.

[6 FR 5950, Nov. 25, 1941]

§ 250.7 Companies deemed not to be electric or gas utility companies.

(a) Any company which is primarily engaged in one or more businesses other than the business of an electric or gas utility company, shall not be deemed an electric or gas utility company within the meaning of section 2(a)(3) or section 2(a)(4) of the Act if the gross sales of electric energy, or of natural or manufactured gas distributed at retail by means of the facilities owned or operated by such company, did not exceed an average annual amount of \$5,000,000 over the preceding three calendar years. There may be excluded from the gross sales specified:

(1) Sales of electric energy or natural or manufactured gas to tenants or employees of the operating company for their own use and not for resale; and

(2) Sales of gas to industrial consumers or in enclosed portable containers.

(b)(1) Any company whose only connection with the generation, transmission, or distribution of electric energy is the ownership or operation of facilities used for the production of heat or steam from special nuclear material which heat or steam is used in the generation of electric energy shall not be deemed an electric utility company within the meaning of section 2(a)(3) of the Act, if such company is organized not for profit and is engaged primarily in research and development activities.

(2) As a prerequisite to being entitled to the status afforded by paragraph (b)(1) of this section, any such company shall file with this Commission a statement that such company falls within the provisions of that subparagraph, including as exhibits (i) copies of its charter, by-laws and any licenses issued by the Nuclear Regulatory Commission to such company; (ii) a list of its members or stockholders indicating their respective percentages of voting power; and (iii) if such company was in